

GILA COUNTY ORDINANCE NUMBER 04-01

Definitions; food service worker training; food service worker training curriculum; display of health licenses; food service manager training; certified food service manager testing requirements; food service manager's duty; exemptions; penalties; severability; repeal

WHEREAS the Gila County Board of Supervisors is empowered to make and enforce all sanitary regulations not in conflict with general law, pursuant to Arizona Revised Statutes 11-251(31), and may adopt an ordinance necessary or proper to carry out the County's responsibilities not otherwise limited or conflicting with other laws, pursuant to Arizona Revised Statutes 11-251.05(A); and

WHEREAS the State of Arizona has adopted food safety training and knowledge requirements for persons who directly or indirectly handle, store, prepare, cook, serve, or transport food and drink intended for human consumption; and

WHEREAS the preservation of the public health, safety and welfare of the citizens of Gila County, and the efficient and effective performance of Gila County's delegated regulatory duties is dependent upon how well these tasks are performed; and

WHEREAS the Board of Supervisors has published this Ordinance in compliance with Arizona Revised Statutes 11-251.05(C);

THEREFORE, be it ordained by the Board of Supervisors of Gila County, Arizona, as follows:

ORDINANCE NUMBER 04-01
ENVIRONMENTAL HEALTH – FOOD SERVICE WORKER AND
FOOD SERVICE MANAGER TRAINING ORDINANCE
GILA COUNTY, ARIZONA

An ordinance adopted by the GILA COUNTY BOARD OF SUPERVISORS, pursuant to Arizona Revised Statutes 36-104, et seq, by delegation from the Arizona Department of Health Services and Arizona Administrative Code R9-8-1, et seq, to establish minimum training requirements for food service workers and food service managers who perform duties directly or indirectly related to preparation of food or drink intended for human consumption; definition of terms and penalties for the violation of the Ordinance exclusively within Gila County, Arizona.

**ENVIRONMENTAL HEALTH – FOOD SERVICE WORKER
AND FOOD SERVICE MANAGER TRAINING ORDINANCE**

REGULATION:

1. Definitions
2. Food Service Worker Training
3. Display of Health Licenses
4. Food Service Manager Training
5. Food Service Manager's Duty
6. Exemptions
7. Penalties
8. Severability
9. Repeal

REGULATION 1 – Definitions:

1. “Bake sale food items” refers to individually wrapped non-potentially hazardous dry foods such as sheet cakes, pastries, cookies, breads, rolls, candy, donuts or fruit pies.
2. “Conference on Food Protection” refers to a nationally-recognized, non-government and non-profit organization that provides a representative and equitable partnership among regulators, industry, academia, professional organizations and consumers to identify problems, formulate recommendations, and develop and implement practices that ensure food safety; the CFP establishes national food service manager examination and certification standards.
3. “Department” means Gila County Health & Community Services Division.
4. “Director” means Director of Gila County Health & Community Services Division or his or her designee.
5. Food Establishment:
 - A. “Food Establishment” means any operation that performs any one or all of these functions; stores, prepares, packages, serves, vends, or otherwise provides food for human consumption;
 - (1) Such as a restaurant; satellite or catered feeding location; catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people; market; vending location; conveyance used to transport people; institution; or food bank; and
 - (2) That relinquishes or delivers possession of food to a consumer directly, or indirectly, or through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.
 - B. “Food Establishment” includes:
 - (1) An element of the operation such as transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location unless the vending or feeding location is permitted by the regulatory authority; and

- (2) An operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; where consumption is on or off the premises; and regardless of whether there is a charge for the food.

C. "Food Establishment" does not include:

- (1) An establishment that offers only prepackaged food or drink that is not potentially hazardous; or
 - (2) A produce stand that only offers whole, uncut fresh fruits and vegetables; or
 - (3) A food processing plant; or
 - (4) A kitchen in a private home if only non-potentially hazardous food is prepared by a religious or non-profit organization for sale at a special function; foods are limited to non-potentially hazardous bake sale food items; food items are individually wrapped or otherwise protected from contamination; and if the consumer is informed by a clearly visible placard provided by the department at the sales or service location that the food being offered is prepared in a kitchen that is not subject to regulation nor is it inspected by the department; or
 - (6) A kitchen in a private home, such as a small family day-care provider; or a bed-and-breakfast operation that prepares and offers food to guests if the home is owner occupied, the number of available guest bedrooms does not exceed six (6), breakfast is the only meal offered, and the consumer is informed by statements contained in published advertisements, mailed brochures, placards, or placards provided by the department posted at the registration area that the food is prepared in a kitchen that is not regulated nor is it inspected by the regulatory authority; or
 - (7) A private home that receives catered or home-delivered food.
6. "Food Service Manager" means any person who supervises/trains food service workers to follow all food safety regulations. The manager shall be an employee of the individually permitted food establishment where employed and who carries on business of the food establishment by whatever title he/she is called.
7. "Food Service Worker" means any person who handles, prepares, serves, sells or gives away food for consumption by a person other than his or her immediate family, or who handles utensils and equipment appurtenant thereto. The term does not include persons in establishments regulated by the Gila County Health Department who handle exclusively food or drink that does not require

refrigeration, is packaged in closed crates, cartons, packages, bottles or similar containers in which no portion of the food or drink is exposed to contamination through such handling.

8. "Health Inspector" means an environmental health specialist, registered sanitarian, sanitarian aid, or sanitarian trainee employed by the Department.
9. "Health License" means a document issued by the Department or any other county in Arizona certifying that an individual has fulfilled training and/or testing requirements to work as a food service worker or food service manager.
10. "Non-profit Organization" means an organization designated as non-profit by the Internal Revenue Service (IRS) pursuant to IRS Code Section 501C.
11. "Person" means the state, a municipality, district, or other political subdivision, a cooperative, institution, corporation, enterprise, company, firm, partnership, individual, non-profit organization or other entity.
12. Potentially Hazardous Food:
 - A. "Potentially Hazardous Food" means a food that is natural or synthetic and is in a form capable of supporting: rapid and progressive growth of infections or toxigenic microorganisms; growth and toxin production of *Clostridium botulinum*; or in shell eggs, the growth of *Salmonella enteritidis*.
 - B. "Potentially Hazardous Food" includes a food of animal origin that is raw or heat-treated; a food of plant origin that is heat-treated or consists of raw seed sprouts; cut melons; and garlic and oil mixtures; cream filled pastries, cakes or pies; baked custard pies such as pumpkin pies.
 - C. "Potentially Hazardous Food" does not include: air-cooled hard-boiled eggs with shell intact; food with a water activity (a_w) value of 0.85 or less; food with a hydrogen ion concentration (pH) level of 4.6 or below when measured at 24°C (75°F); food in an unopened hermetically sealed container, commercially processed to achieve and maintain commercial sterility under conditions of non-refrigerated storage and distribution; and food which a variance granted by a duly authorized regulatory authority is based upon laboratory evidence demonstrating that rapid and progressive growth of infectious and toxigenic microorganisms or the growth of *Clostridium botulinum* cannot occur.

13. Pre-Packaged

- A. “Pre-Packaged” means bottled, canned, cartoned, securely bagged, or securely wrapped, whether packaged in a regulated food establishment or a food processing plant.
 - B. “Pre-Packaged” does not include a wrapper, carryout box, or other nondurable container used to contain food for facilitating food protection during service and receipt of the food by the consumer.
14. “Temporary Food Establishment” means a food establishment, food booth, drink booth, which provides food or drink at a single event, a seasonal event, a periodic event or celebration lasting for not more than fourteen (14) consecutive days.

REGULATION 2 – Food Service Worker Training

- A. Effective one hundred eighty (180) days after the effective date of this ordinance and thereafter within thirty (30) days of hire date or the date volunteer service begins, all food service workers who do not hold a valid health license as defined in this ordinance must obtain a food service worker health license by completing a food service worker food safety and sanitation course or test given by the Department, its’ designee or via the official Gila County Government web site. Food workers who hold an unexpired health license from any other county in Arizona may continue to work in Gila County as a food worker until the credential expires, at which time they must obtain a food service worker license by achieving a passing score of 70% or higher on a food service worker food safety and sanitation test given by the department, its’ designee or via the official Gila County Government web site.
- B. All food worker licenses issued or granted under this subparagraph shall expire two (2) years from date of issue.
- C. A food establishment owner or operator may not employ a food worker for more than thirty (30) days who has not complied with requirements contained in this ordinance.
- D. At least one person working at a temporary food establishment or non-profit organization with permanent kitchen facilities, licensed to operate by the department, and serving only one (1) meal per week shall attend food worker training and obtain a health license and shall be on site during all periods of food preparation and operation.

- E. Food service worker food safety and sanitation course shall consist of, but not limited to the following basic public health food safety concepts:
- 1) Personal hygiene and effective hand washing
 - 2) Cross contamination
 - 3) Inspecting food deliveries and recognizing unsafe conditions
 - 4) Labeling food containers with date of preparation or discard date and disposal of leftovers
 - 5) Time and temperature relationships for hot and cold potentially hazardous food
 - 6) Cooking temperatures for raw animal products
 - 7) Employee health standards and causative factors for foodborne illness
 - 8) Importance of using food and food items that originate from approved sources
 - 9) Cleaning and sanitizing procedures
 - 10) Proper cooling methods and reheating of potentially hazardous food
- F. Food service worker license must be renewed before the date of expiration.
- G. A health license issued by another county in Arizona must be replaced with a food service worker license issued by the Department before the date of expiration of said health license.
- H. A fee established by the Gila County Board of Supervisors for initial issue and renewal, shall be paid to the Department.

REGULATION 3 – Display of Health Licenses

Each food establishment shall maintain a separate file containing the health licenses for each food service worker and food service manager. This file shall be accessible to the health inspector during the time of inspection.

REGULATION 4 – Food Service Manager Certification Training

- A. Effective one hundred eighty (180) days after the effective date of this ordinance and thereafter within one hundred eighty (180) days of hire date, food service managers who do not hold a valid

food service manager health license as defined in this ordinance must obtain a food service manager health license by passing a food service manager certification test approved by the Conference on Food Protection and must result in the issuance of food service manager health license from the Department. All licenses, certificates, diplomas, or other similar credential issued or granted under this subparagraph shall expire five (5) years from date of issue.

- B. Each certified food service manager must renew his or her food service manager health license before the date of expiration.
- C. A fee established by the Gila County Board of Supervisors for initial issue and renewal, shall be paid.

REGULATION 5 – Certified Food Service Manager’s Duty

- A. All food establishment locations with fifteen (15) or fewer employees shall have one certified food service manager on staff, which is either physically present or available by electronic or telephonic means, whenever food is being prepared or the food establishment is in operation.
- B. All food establishment locations with sixteen (16) or more employees shall have one certified food service manager on duty whenever food is being prepared or the food establishment is in operation.
- C. A food establishment owner or operator may not employ a food service manager for more than one hundred eighty (180) days who has not completed requirements contained in this ordinance.

REGULATION 6 – Exemptions

Convenience stores and other similar operations serving, handling or storing only pre-packaged, non-potentially hazardous food or heat and serve potentially hazardous food requiring minimal handling and no preparation are exempt from Regulation 4 & 5 requirements.

REGULATION 7 – Penalties

A person who violates any portion of this ordinance may be assessed a civil penalty of not more than \$750 for each violation and/or found guilty of a class 3 misdemeanor offense. Any enterprise may be assessed a civil penalty of not more than \$5,000 for each violation.

REGULATION 8 – Severability

Should any section, paragraph, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid for any reason, it is the intent of the Gila County Board of Supervisors that the remainder of this Ordinance shall not be affected thereby, and shall continue in full force and effect.

REGULATION 9 – Repeal

This Ordinance repeals and supercedes every other ordinance adopted by the Gila County Board of Supervisors relating to food worker training and manager certification training and/or violations including but not restricted to those listed in this Ordinance.

PASSED AND ADOPTED by the Board of Supervisors of Gila County, Arizona on the
6th day of January, 2004.

This ordinance will become effective within Gila County, Arizona thirty (30) days after date of adoption.

GILA COUNTY BOARD OF SUPERVISORS:

Ronald Christensen, Chairman

ATTEST:

John F. Nelson, Clerk of the Board

APPROVED AS TO FORM:

Daisy Flores, County Attorney